

REMARKS

The Present Invention and Pending Claims

Claims 1, 2, 5-9, 14-37, 39, and 40 are pending and directed to novel compounds, compositions, and methods for photodynamic therapy which function by a unimolecular mechanism.

Amendments to the Abstract and Claims

An abstract has been added to the application in accordance with 37 C.F.R. 1.72(b). The addition of the abstract is supported by the abstract on the face of the published PCT application.

The claims have been amended to point out more particularly and claim more distinctly the present invention. Specifically, claims 41-116 have been canceled as directed towards nonelected subject matter. Claims 3, 4, 10-13, and 38 have been canceled. The elements of claims 3 and 4 have been incorporated into claims 1, 2, 33, and 36. In addition, claims 1, 14, 33, and 36 have been amended in accordance with the elected invention. Finally, claim 9 has been amended to correct an obvious typographical error. The second structure in claim 9 has been corrected to recite a pyridine ring substituted with a hydroxyl group and optionally an alkylene chain. The omission of the pyridine ring was an obvious error since the specification and claims indicate that those structures are all nitrogen-containing groups. Accordingly, no new matter has been added by way of these amendments.

Summary of the Office Action

The Examiner objects to Figure 7. The specification has been objected to for failure to include an abstract. Claims 1-40 are rejected either under 35 U.S.C. § 112, first paragraph, as allegedly nonenabled, 35 U.S.C. § 112, second paragraph, as allegedly indefinite, or as directed to nonelected subject matter. Reconsideration of these rejections is hereby requested.

Discussion of the Drawing

The Examiner objects to Figure 7 as blurred and indefinite. More specifically, the Examiner points out that columns 3 and 5 have double bars. Applicants note that double bars should appear in columns 3-6. Moreover, up to 3 different bars can appear in the same lane since the test identifies three different forms of DNA (i.e., circular supercoiled DNA (form I), circular relaxed DNA (form II) and linear DNA (form III)) that can be simultaneously present. Therefore, the figure should not be considered indefinite, and the objection should be withdrawn.

Discussion of the Rejections

According to the Office Action, claims 2-4 and 8-36 have been withdrawn from consideration on the basis that these claims "include compounds outside a reasonable extension of the elected species." In accordance with the elected species, the Examiner indicates that B and B¹ can be nitrogen- or oxygen-containing groups. However, with this in mind, many of the withdrawn claims (e.g., claims 8 and 9) read directly on the elected groups (i.e., nitrogen- or oxygen-containing groups). Applicants note that 37 CFR 1.141(a) states that upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim. Nevertheless, in order to advance prosecution and not in acquiescence of the rejection, the claims have been amended to include only those moieties that are considered a "reasonable extension of the elected species" and in accordance with the Examiner's suggested amendment (see Office Action pages 2 and 3).

Additionally, the claims have been amended to make the terms "organic group" and "solubilizing group" more clear.

Applicants note that in the Examiner's suggested amendment, the language about the optional ligand other than the enediyne-containing ligand is missing. This language has not been deleted because it is noted that certain metals (e.g., V) have coordination numbers such that even when one or two enediyne-containing ligands are complexed to M, there are open valencies in which an additional ligand can bind. These additional ligands often are desirable for the overall stability or chemical properties (e.g., water solubility) for the metal complex.

In view of the foregoing, the amended claims are enabled and definite, and the rejections should be withdrawn.

Information Disclosure Statements

The Examiner indicates that no Forms PTO-1449 were found for the present application. An IDS was submitted with references AA-AE on August 20, 2001. A second IDS was submitted with references AF-CT on November 26, 2001. Copies of both Forms PTO-1449 and the accompanying postcards (with PTO date stamps) are enclosed herewith.

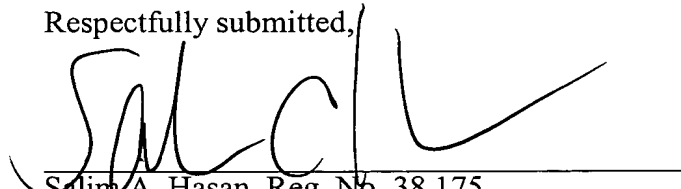
Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the

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Examiner, a telephone conference would expedite the prosecution of the subject application,
the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Salim A. Hasan', written over a horizontal line.

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